



U.S. DEPARTMENT of STATE

Chile

Country Reports on Human Rights Practices - [2003](#)

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Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and retains certain institutional limits on popular rule. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos' governing coalition known as the Concertacion held a 63-57 majority in the lower house. The Senate was divided 24-24 between pro-Concertacion legislators and the opposition. The judiciary was independent.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. Most notably, the President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) and the civilian Investigations Police are under operational control of the Ministry of Interior. While civilian authorities maintained effective control of the security forces, some members of security forces committed human rights abuses.

In 1999, the export-led free-market economy experienced its first recession after 15 consecutive years of expansion, and the economy has yet to regain its pre-1999 dynamism. According to the 2002 census, the population was 15.1 million. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Economic growth for the year was 3.2 percent with inflation of 1.1 percent. Unemployment averaged 8.5 percent during the year. The percentage of the population living below the poverty line was 20.6 percent in 2001.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees sometimes were not advised promptly of charges against them nor granted a timely hearing before a judge. Anti-defamation laws adversely affected journalists and authors. The authorities occasionally used force against protesters. Discrimination and violence against women and children continued to be problems. Indigenous people remained marginalized. Child labor was a problem in the informal economy.

During the year, the Government, primarily the judiciary, continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. Military authorities continued to be unwilling or unable to provide a full accounting for the fate of many of the 3,000 persons who disappeared or were killed. As of mid-June, there were 179 former officials (mostly military but some civilians) charged and under investigation for human rights violations and another 14 that had already been sentenced. In July 2002, the Supreme Court ruled that former President Pinochet was mentally unfit to stand trial, and ended all legal proceedings against him in the case known as the "Caravan of Death." Subsequent rulings in other cases during the year indicated that the same criteria would apply in all criminal cases brought against the former President.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Other Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

A number of cases from previous years, in which the police were accused of extrajudicial killings due to excessive use of force or mistreatment of prisoners while in custody, remained under investigation or pending resolution of appeals.

Although the case remained open, there continued to be no progress in the investigation of the death of Carlos Millaman, detained in 2000 on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), persons who visited him at the headquarters of the Investigative Police in the Santiago suburb of La Florida reported that he was in bad physical condition and feared for his life; he was subsequently transferred to the El Salvador hospital where he died later that day.

On May 28, after 14 years of investigation by various magistrates, Judge Hugo Dolmestch indicted three members of the Army for the murder of leftist leader Jecar Nehgme, detained in 1989. His investigation continued into the case involving the 1986 detention and death of journalist Jose Carrasco and three other persons.

Throughout the year, the Supreme Court reaffirmed its position that the Amnesty Law (covering human rights violations from 1973 to 1978) and the statute of limitations should be applied only after the circumstances of the crime had been clarified and the guilty party identified. The Foundation for Social Help of Christian Churches (FASIC), the CODEPU, and other human rights organizations have several denial of justice cases pending before the Inter-American Commission on Human Rights (IACHR) regarding previously closed disappearance and execution cases. Denial of justice cases based on application of the Amnesty Law also have been filed with the U.N. Commission on Human Rights (UNCHR).

The case of Spanish citizen Carmelo Soria, killed in Santiago in 1976, remained under investigation by a judge in the Sixth Criminal Court of Santiago. Four retired generals and a civilian accused of the 1974 car bombing in Buenos Aires of former Chilean Army commander Carlos Prats were indicted and were being investigated by Judge Alejandro Solis at year's end. On December 10, the authorities arrested Rafael Gonzales, a retired security officer, in the first indictment in the death of Charles Horman, a U.S. citizen killed after being detained by security forces following the 1973 coup d'etat. The case remained under investigation at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

In 2002, the Ministry of Justice authorized 20 judges to dedicate their time exclusively to historic cases of disappearances and another 51 judges to give preference to the investigation of such cases. Largely as a result of their work, in the first half of the year, indictments were brought in 38 cases, according to the foundation maintaining the archives of the Catholic Church's former Vicariate of Solidarity. Indictments were brought against 120 retired members of the armed forces and, for the first time, some civilians.

There were no further developments in the investigations of military-era detentions and disappearances of persons at Colonia Dignidad (renamed "Villa Baviera"), a secretive German-speaking settlement 240 miles south of Santiago during the year. Paul Schaefer, founder of the 34,000-acre enclave, remained a fugitive, wanted on charges including the 1994 kidnapping and disappearance of Alvaro Vallejos, at year's end. In 2000, the authorities arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke, but first he must stand trial in connection with Vallejos' disappearance and two other charges that remained under investigation. Muecke remained in custody at year's end.

In 1985, Boris Weisfeiler disappeared near Colonia Dignidad under circumstances that have yet to be clarified. The case was reopened in 2000 and remained under investigation at year's end.

Of the 1,156 persons who disappeared under the military regime, the remains of more than 900 have yet to be found. In January 2001, the Armed Forces stated that, of the only 200 cases of disappeared persons for which they claimed to be able to account for, 151 were thrown into the sea, a statement that subsequently proved to be inaccurate as some of the remains of those reportedly thrown into the sea were found buried on land. The government agency in charge of the compensation program for the families of those executed or who disappeared under the military regime recognizes 3,197 victims of the Pinochet era. These include 2,095 victims in which circumstances of death have been established and 1,102 cases in which the persons disappeared. Survivors of the victims received pensions, educational benefits, and other assistance. Since 1992, the program distributed approximately \$140 million (90 billion pesos) in pensions alone.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution forbids the use of excessive pressure on detainees and the law provides that if a member of the police force uses "torture or unlawful coercion," either physical or mental, orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the "necessary power and authority" to prevent or stop it also would be considered accessories to the crime if they fail to do so. The CODEPU, nevertheless, still received reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards. Few of these reports led to hearings in court and even fewer led to convictions. The CODEPU was unaware of any case in which a member of the Investigative Police had been convicted.

No new information has become available regarding the mistreatment of military conscripts during the year.

During the year, there were instances of violent confrontations between radical Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country (see Section 5). The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. In November 2002, a Mapuche activist was shot and killed in a confrontation with the police. Several Mapuches were arrested in connection with acts of violence.

Police occasionally used force against protesters (see Sections 2.b. and 5).

Prison conditions were generally poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. In March 2002, overcrowding led to a prison riot in Valdivia, in which part of the prison was destroyed by fire. Several guards and prisoners were injured although there were no fatalities. The prison, built for 200 inmates, housed more than 600. The Ministry of Justice announced a \$5 million (3 billion pesos) program in all prisons to develop contingency planning for emergencies and to prevent such incidents from occurring in the future.

The Government recognized that overcrowding in prisons continued to be a problem. According to the Ministry of Justice, in 2001 there were 34,335 prisoners in prisons designed to lodge 23,025 inmates, a situation that remained unchanged in subsequent years. In 2001, the Ministry of Justice opened bids on 3 new prisons, to be completed in December 2004 and designed initially to house 4,800 prisoners. These prisons are part of a plan to construct 10 new prisons in the next several years, to house an initial population of 16,000 prisoners. Even with this construction program, the growing prison population is projected to continue to exceed the space available. Food met minimal nutritional needs, and prisoners were able to supplement the diet by buying food. Those with sufficient funds often can "rent" space in a better wing of the prison.

Although most analysts stated that guards generally behaved responsibly and did not mistreat prisoners, prisoners have complained to the CODEPU about beatings, and the courts received numerous complaints of mistreatment of prisoners. Prison guards were accused of using excessive force to stop attempted prison breaks. The Supreme Court expressed particular concern over the sanitary conditions and treatment of prisoners in the Colina II prison's Alfa high security unit. In March, an investigation was begun into the nature and origin of reportedly "self-inflicted" wounds suffered by prisoners in the Alfa unit. The wounds occurred during protests over the prisoners' inability to receive time off for good behavior. The prisoners claimed that the prison lacked the schools and workshops necessary for them to meet the law's requirements. In 2002, an investigation by the Supreme Court found evidence of physical mistreatment of the prisoners.

The Minister of Interior asked the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often did not result in arrests due in part to the reluctance of judges to pursue the issue vigorously. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

When requested by other human rights organizations or family members, the CODEPU lawyers visited detainees during the interrogation and represented some persons suspected of terrorist acts in court. The CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental deficiencies who allegedly failed to receive adequate medical attention.

Pretrial detainees generally were not held with convicted prisoners. Women generally were housed in separate facilities, which tended to be less crowded and with comparatively better conditions than men's prisons.

By law, juvenile offenders (those under the age of 18) were segregated from adult prisoners. In September 2002, the Supreme Court admonished police officials for failing to keep minors sufficiently separated from adult offenders and ordered prison officials to correct this deficiency. Separation of minors was a concern, especially when a minor initially was detained before being brought to court. A study by Diego Portales University determined that in 2001, of the 10,748 minors detained, 37.3 percent were initially held in adult facilities. The National Minors Service completed construction of two juvenile detention centers started in 2001, and continued the construction of two additional centers.

The Government permits prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions. Only public official expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be arrested or detained except in their house or a public facility designed for that purpose.

The Carabineros, who number approximately 27,000 men and women, have primary responsibility for public order, safety, traffic control, and border security. The civilian Investigations Police, made up of approximately 3,600 detectives, are responsible for criminal investigations and immigration control. The Investigations Police, while under the operational jurisdiction of the Ministry of Interior, take their guidance from the prosecutor or judge responsible in a criminal investigation. The police force had an extremely low incidence of corruption. Police, prison guards, and officials take courses in human rights, which are part of the core curriculum in the police academies.

Provisional liberty must be granted unless a judge decides that detention is necessary to the investigation or for the protection of the prisoner or the public. The accused cannot be obliged to testify against himself. The authorities generally respected constitutional provisions for arrest and detention; however, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access.

The most recent statistics available showed that at the end of 1999, 8 percent of the general prison population of 24,791 were under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting the investigating judge's verdict or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

The law requires police to inform detainees of their rights, to expedite notification of the detention to family members, and eliminates the ability of police to demand identification from or stop persons based solely on suspicion. The law also prohibits physical abuse by police against detained persons (see Section 1.c.). The Constitution allows judges to set bail.

There were no cases of forced exile; however, a number of people convicted of terrorism have had the remainder of their sentences commuted to exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary has civil, criminal, juvenile, and labor courts of first instance throughout the country but mostly concentrated in and around Santiago. There are 16 courts of appeal with at least 1 in every region. The Santiago and Valparaíso courts of appeal have several chambers that tend to specialize in one or another area of the law. The Supreme Court, with 25 members, is the last instance of appeal. A constitutional tribunal decides whether new laws or treaties present conflicts with the Constitution (but does not look at specific court cases). There is also a Court Martial and Naval Court Martial.

Most sitting judges come from the career judiciary. All judges are appointed for life. A 1997 Constitutional reform set 75 as the age limit for Supreme Court justices, gave the Senate the right to veto presidential nominations to the

Court, and increased court membership from 16 to 21. It also mandated that five members of the Supreme Court must be civilians from outside the career judiciary. The Supreme Court prepares lists of nominees for all members of the Supreme Court and appeals courts, from which the President makes nominations.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial reform law created the post of Attorney General, with a 10-year term, and a supporting administrative infrastructure. An office of Public Defender also was established to provide professional legal counsel to anyone who should seek such assistance. The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges the narrower function of weighing the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in 2000, with oral trials in 2 of the 13 political regions. At year's end, only the Santiago greater metropolitan region had yet to implement the reform. Initial reports indicated that the reform resulted in a more transparent process, greater respect for defendants' rights, and speedier trials.

In the Santiago metropolitan region, criminal proceedings were inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases in the Santiago region, have not always received effective legal representation. They were usually represented by someone from the Government's legal assistance corporation, who was sometimes a law student finishing studies under the supervision of one of the corporation's lawyers. On occasion, the court may appoint a lawyer.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros, the military prosecutor asks for jurisdiction, which the Supreme Court sometimes has granted. This is of particular consequence in human rights cases from the period covered by the Amnesty Law. Military courts were much more inclined to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer were also brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and appeals ultimately may be heard by the Supreme Court. The primary difference in the military court system is that the initial investigation and charges are brought by a military prosecutor, and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

There were no reports of political prisoners, although 57 inmates in Santiago's maximum-security prison, all charged with terrorist acts following the return to democracy, routinely claimed to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. A privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The press maintained its independence, criticized the Government, and covered issues sensitive to the military, including human rights cases.

Human rights groups and press associations criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them; the Government revoked one such law and was seeking to revoke others. Military courts still have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see Section 1.e.).

Despite a new press law, the Penal Code still prohibits insulting state institutions such as the presidency, as well as legislative and judicial bodies. In April, a Santiago appeals court absolved a talk show participant who was imprisoned briefly and released on bail after the president of the Supreme Court brought charges against him in

December 2002. The participant had commented on the case of a woman who spent 3 years in prison for a crime she did not commit and accused the justice system of being immoral, cowardly, and corrupt. The Government continued to support legislation in the Congress that would remove provisions from the criminal code protecting government officials.

The 2001 case of the president of the State Defense Council's private libel charges against El Mercurio newspaper for criticism of her performance of official duties and the suggestion that she resign, was still pending at year's end.

A 1995 modification of the penal code prohibits the surreptitious taping or recording of private conversations. During the year, a judge applied this law for the first time, charging a television network with violating a judge's privacy by using a hidden camera. The court had yet to determine guilt; however, it detained the entire news department's chain of command to the level of the station manager, who ultimately lost his job as a result of the story.

Two major media groups controlled most of the print media, which largely were independent of the Government. The Government is the majority owner of La Nacion newspaper, but its editorial content is not under direct government control. Investigative journalism made significant strides in 2002 when La Nacion reported on the alleged withholding of information by the Air Force on human rights violations under the military regime. Also, that same year, several leading private newspapers reported stories on alleged bribery within Congress and the Ministry of Transportation and Public Works.

The broadcast media generally were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It received no government subsidy and was self-financing through commercial advertising. It was editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflected various political viewpoints, and the board encouraged the expression of varied opinions over the network.

The National Television Council (CNT), supported by government funding, is responsible for assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming made the CNT's job difficult. The CNT occasionally levied fines. Debate continued over the CNT's role, especially after it levied fines in December on one television channel for broadcasting a compromising tape of a judge taken with a hidden camera, and on another channel for filming the arrest of an individual in the bedroom of his home.

In January, a new film classification system began that ended film censorship. The change was symbolically highlighted by the commercial exhibition of the previously banned film "The Last Temptation of Christ."

In December 2002, a Santiago court ordered police to seize immediately all existing copies of journalist Cristobal Pena's book "Cecilia, La Vida en Llamas," an unauthorized biography of singer Cecilia Pantoja. The removal order came after the singer filed a libel suit against the author. The author's appeal was successful, and the book was available for sale again a few months later.

The courts may prohibit media coverage of investigations in progress but did so rarely. The press used foreign Internet web sites to publish articles when gag orders were issued.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right to assemble peacefully, and the Government generally respected this right in practice; however, police occasionally used force against demonstrators.

In July, Carabineros entered the University of the Frontier and beat two students in the process of detaining them. In August, 312 persons were detained during a general strike called by the main labor federation. Carabineros responded to acts of violence by protesters, injuring 72 civilians. Fifteen police officers were also injured.

September 11 marked the 30th anniversary of the coup d'etat that overthrew President Salvador Allende. Although commemorative events during the day took place peacefully, disturbances during the evening in the poorer neighborhoods led to 394 people being detained. There was no tally of civilian casualties other than one who was seriously injured by a bullet. Two police also suffered serious bullet wounds, and 22 others required medical attention.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Church and State officially are separate; however, the Roman Catholic Church continued to receive some preferential treatment. All denominations practiced their faiths without restriction.

In 2000, a law went into effect that bestows upon all faiths the same legal status previously enjoyed only by the Catholic Church and removes the ability of the Government to dissolve religious entities by decree.

The new law grants other religions the right to have chaplains in public hospitals, prisons, and military units, and the presence of Protestant ministers in these institutions continued to rise. Still, some leaders of the country's Protestant churches (which account for just over 15 percent of the population) continued to note instances of discrimination. They cited the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools. Military recruits, whatever their religion, were required at times to attend Catholic events involving their unit.

Schools were required to offer religious education twice a week through middle school; however, enrollment in religious classes was optional. The creed requested by parents is supposed to be taught, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith; however, more schools offered non-Catholic alternatives for religious education. The two most prestigious public schools in Santiago offered an evangelical alternative.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice. In order for minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from the nonaccompanying parent(s).

The law includes provisions for granting asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and over. In 2000, voters elected Ricardo Lagos, of the Socialist Party, as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The legislative branch, with the exception of 10 nonelected senators among the 48 members of the upper house, is elected freely and is independent from the executive branch. In 2001, free and fair congressional elections were held for all 120 seats in the lower house and 18 of the 38 elected seats in the Senate. The elections resulted in a 24-24 split between pro-Lagos senators and those of the opposition and narrowed the Concertacion coalition's lead in the lower house from 70-50 to 63-57.

The Government still operates under some political restraints that the military regime imposed. Under the 1980

Constitution, various national institutions--including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)--appoint an additional nine Senators (beyond those elected) to 8-year terms. In addition, former President Frei exercised his option to become a senator-for-life. Former President Pinochet resigned his senator-for-life position in July 2002.

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should remain in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and places limits on majority rule. These provisions include limitations on the President's right to remove the commanders in chief of the three armed services and the Carabineros, certain legislation requiring super-majorities, and the provision for nonelected senators. At year's end, Congress had not passed legislation in response to constitutional reform proposals.

In January, Army Commander in Chief Juan Emilio Cheyre disassociated himself from the Pinochet regime and put an end to any future speculation that the Army sought a role in politics. Cheyre stated that the Army belonged to all citizens and "never again" would it lend itself to political purposes.

Women have the right to vote and were active in all levels of political life, including grassroots movements. There were no legal impediments to women's participation in government and politics. There were 15 women among the 120 deputies, 2 women in the 48-seat Senate, and 3 women among the 16 cabinet ministers.

The 692,000 people who declared themselves to be of indigenous origin in the 2002 census have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledged indigenous descent. There was one minister in the cabinet of indigenous origin.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Several human rights nongovernmental organizations (NGOs) faced difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC continued to be active on a range of human rights issues and tracked the status of many human rights cases, especially those involving the military. The CODEPU continued to operate at greatly reduced levels of activity during the year due to a lack of resources. The Government cooperated with domestic NGOs' efforts to investigate accusations of human rights violations. Many international NGOs also followed human rights issues closely.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equality before the law, and the Government generally respected these provisions. The new Labor Code prohibits discrimination based on race, color, sex, age, marriage status, union membership, religion, political opinion, nationality, national origin, or social status (see Section 6.a.); however, such discrimination occurred in practice.

Women

Serious problems affecting women included sexual and domestic violence. During the year, the National Women's Service (SERNAM), which combats discrimination against women, continued to conduct courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. A study done in 2001 by the University of Chile indicated that more than half the women in the country had experienced violence in their relationship with their partner. The study calculated that 34 percent of women have been subject to physical violence (of which 14.9 percent was sexual violence) and another 16.3 percent have suffered psychological violence. Since the law on intrafamily violence went into effect in 1994, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999.

The courts may order counseling for those involved in intrafamily violence. At year's end, there were 17 government and 8 private centers to attend to victims of intrafamily violence. The Investigative Police had a special office that provided counseling for rape victims. The Ministry of Justice also had several offices located throughout

the country specifically for assistance in rape cases. There were a number of NGOs, such as La Morada Corporation for Women, that provided counseling.

In 2002, a law took effect increasing the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The Citizens' Peace Foundation indicated that there were 1,373 cases of rape reported to the police in 2001, and 1,250 in 2000. Experts believed that a majority of rape cases went unreported.

Adult prostitution is not expressly illegal. Police habitually detained prostitutes (usually as a result of complaints by residents of the neighborhood) and accused them of "offenses against morality," which can lead to a \$70 (50,000 pesos) fine or 5 days in prison.

There were no laws against sexual harassment, although it generally was recognized as a problem.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. If the couple has children, provisions are made for child support. A 1994 law created conjugal property as an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives men no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A 2001 SERNAM study found that the average earnings of women were 68.2 percent of those of male heads of household. Women with no schooling averaged a salary that was 81.3 percent that of their male counterparts. The minimum wage for domestic helpers (who are thought to number 300,000 in what is probably the largest single category of working women) was only 75 percent of the standard minimum wage (see Section 6.e.). Women with university training averaged 53.4 percent as much earnings as their male counterparts. The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these also apply to domestic workers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them, although La Morada has received reports that the practice continued in some companies.

Children

The Government is committed to children's rights and welfare. Education is compulsory and free from first through twelfth grade.

Violence against children was a serious problem, although it appeared to be declining. A survey of 8th grade students by UNICEF comparing the incidence of mistreatment from 1994 to 2000 showed that in 1994, 63 percent of children had been subject to some sort of physical violence compared with 54 percent at the end of the period. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 34 percent to 25 percent.

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 mistreated children for the first 6 months of that year; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that 9,723 cases of abuse were brought to its attention in 1998. From mid-1998 to December 1999, the SENAME brought to the courts 713 cases of child abuse, 314 of rape, 292 of sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. SENAME lawyers received specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the director of the organization. A report from La Morada Corporation for Women released in 1999 estimated that there were 20,000 cases of sexual abuse of children every year.

Child prostitution was a problem (see Section 6.f.).

Police and social workers attempted to identify and place child prostitutes found on the streets in juvenile homes.

Persons with Disabilities

The law promotes the integration of persons with disabilities into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 2002 census found that 354,053 citizens claimed to have some form of disability. Persons with disabilities still suffered some forms of legal discrimination.

Although the law requires that public buildings provide access for persons with disabilities, by year's end, 74 percent of the buildings in the country failed to meet that requirement (79 percent in the Santiago metropolitan area). The public transportation system did not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provided facilitated access for persons with disabilities only in some areas.

Indigenous People

According to the 2002 census, people who declared themselves to be of indigenous origin made up 4.6 percent of the population, approximately 692,000. The Mapuches, from the south, account for approximately 85 percent of this number. There are also small Aymara, Atacamenos, Rapa Nui, and Kawaskhar populations in other parts of the country. The 2002 total represented a drop of 306,000 (30.7 percent) from the 1992 census figures. Santiago saw a particularly sharp decrease in its official number of indigenous residents. Indigenous leaders disputed these figures, arguing that the numbers were underreported.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. Of the population that identifies itself as indigenous, approximately one-half remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice, the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources was marginal. Indigenous people also experienced some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people were elected directly as representatives to this body in 1995 and 1999. It advises and directs government programs that assist the economic development of indigenous people. In 2000, the Lagos administration appointed the Commission for Truth and New Treatment, which proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, the commission became permanent, with a mandate to find ways to facilitate the participation of Mapuche and other indigenous populations in the formulation of national policies affecting them. In October, the commission issued a four-volume report that, among many recommendations, suggested explicit recognition of indigenous peoples in the Constitution and mandatory representation in the Congress and local governing bodies.

Over 40 land occupations and an equal number of other isolated acts of violence by Mapuche Indian groups occurred throughout the year (see Section 1.c.). The authorities tried many of those charged with the attacks under anti-terrorist law.

On April 18, police reportedly responded with tear gas and rubber bullets to an incursion onto private timberland by approximately 15 Mapuches. Eight were detained and several wounded. On June 10, police arrested 29 Mapuche students, and injured several of them, as police dislodged them from a building belonging to CONADI. Water cannons and rubber bullets were reportedly used. The students were seeking the removal of the Deputy Director of CONADI. In August, a group of Mapuches occupied the offices of the provincial governor to protest the retrial ordered by the Supreme Court of two indigenous leaders accused of setting fire to a farm owned by a member of the Constitutional Tribunal. On October 21, seven Mapuches were arrested and five injured when they were dislodged from a farm.

In November 2002, police shot and killed a Mapuche activist in a confrontation. On September 2, a Carabinero major was charged with unnecessary violence resulting in death. The investigation was still underway at year's end.

Five Mapuche families that had objected to exchanging traditional lands for other property as part of the Ralco hydroelectric project agreed to terms of a settlement allowing the project to go forward. Previously, 68 families had accepted economic inducements to move to other land.

National/Racial/Ethnic Minorities

The country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. There are also smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans, who experienced some societal intolerance.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to form unions without prior authorization and to join existing unions. The work force was estimated at 5.87 million persons, of whom 3.7 million were salaried. Union membership was approximately 580,000, or roughly 10 percent of the work force. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

The Labor Code permits nationwide labor centrals; the Unified Workers Central (CUT) was the largest and most representative of these. Labor unions were effectively independent of the Government, but union leaders usually were elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials were not restricted, although currently serving union officials are not allowed to hold elective office. Registering a union was a simple process.

In 2001, a major reform of the Labor Code went into effect. Among various other provisions aimed at facilitating the formation of unions and promoting collective bargaining, the reform freed unions from government regulation of their internal organization, permitted unions to be structured along geographic as well as functional lines, and lowered the minimum number of workers necessary to form a union.

Amendments to the Labor Code resulting from the 2001 reform placed additional limits on the causes for dismissal and significantly increased the penalties for unjustified dismissals. Employees who believe they have been dismissed unfairly or dismissed owing to their trade union activities file complaints with the Ministry of Labor and ultimately, the labor tribunals. According to the revised Labor Code, if the dismissal is found to be related to trade union activity on the part of the employee, he or she may choose between reinstatement with back wages or an additional compensatory payment. The burden of proof rests with the employer in cases where alleged illegal anti-union activity is supported in a report by a labor inspector.

A Labor Directorate study showed 739 complaints presented to the Labor Directorate in 2002 compared to 457 in 2001. Complaints included failure to deduct union dues, discrimination, and impeding union organizing. The Directorate attributed the increase to greater confidence by workers under the new Labor Code that they would not face reprisals from their employers. The Labor Directorate took 280 cases to court in 2002 while dismissing 349 complaints as unfounded.

The CUT and many other labor confederations and federations maintained ties to international labor organizations.

b. The Right to Organize and Bargain Collectively

Employees in the private sector have the right to strike; however, the Government regulates this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a penalty that is distributed among the strikers. Public employees in theory do not enjoy the right to strike, although government teachers, municipal, and health workers have gone on strike in the past. The law proscribes employees of some 30 companies--largely providers of essential services (e.g., water and electricity)--from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the public sector. Strikes by agricultural workers during the harvest season were prohibited.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers.

There were a number of strikes during the year, although the trend of strikes carried out as a percentage of those authorized appears to be on the decline. In 2002, 282 strikes were authorized and 87 took place, as compared to 205 authorized strikes and 89 actual strikes in 2000. This can in part be attributed to more successful mediation efforts. From February to September 2002, there were 191 requests for mediation, of which 70 percent were successfully mediated, thereby avoiding a strike.

On August 14, the CUT called for a 1-day general strike, asking for improved wages and labor conditions. This was the country's first national strike since the return to democracy in 1990.

Union officials and the Ministry of Labor indicated that the modifications of the Labor Code made union organizing easier, and preliminary data on new union formation after December 2001 appeared to confirm those expectations. An analysis by the Labor Directorate in 2002 showed 1,042 new unions were formed with 36,992 new members, compared to 518 and 20,951 the year before. Many of the new unions were in smaller companies that had never had a union. Also, of 1,577 labor agreements signed between companies and workers in 2002, 80 percent were the result of collective bargaining; the others were company imposed agreements.

Workers engaged in the formation of a union may not be discharged during the period from 10 days before to 30 days after the vote to unionize. Likewise, the workers engaged in collective bargaining are immune for 10 days

before the presentation of a contract proposal until 30 days after it is signed. They are also entitled to all pertinent financial information from the company for the last 2 years. The modifications also greatly increase fines for violating immunities enjoyed by union leaders or artificially dividing up a company for the purpose of avoiding provisions in the code or resisting unionization. To enforce the new provisions, the Labor Directorate under the Ministry of Labor began to hire some of the 443 new employees mandated under the new legislation, including 300 labor inspectors, almost doubling the number of field inspectors.

Temporary workers--defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers--may form unions, but their right to collective bargaining is limited. The recent modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it is still dependent on employers agreeing to negotiate. Inter-company unions were permitted to bargain collectively only if the individual employers agree to negotiate under such terms.

Labor laws apply in the duty free zones; there were no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution and the Labor Code prohibit forced or bonded labor, and there were no reports that such practices occurred. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment

The law restricts child labor; however, it was a problem in the informal economy. The law allows children between the ages of 15 and 18 to work with the express permission of their parents or guardians, they must attend school, and 15-year-olds may only perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforced these regulations, and compliance was good in the formal economy; however, many children were employed in the informal economy. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 worked. A 2002 International Labor Organization study put the number of working children aged 12-14 in 2000 at 14,914, or 2 percent of the children of that age. Children sold chewing gum on the street, washed windshields, worked as street performers, begged, or helped their parents to harvest crops. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor.

e. Acceptable Conditions of Work

The minimum wage is set by law, and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$175 (111,500 pesos) net of deductions per month. This wage was designed to serve as the starting wage for an unskilled single worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see Section 5). The Government estimated that the proportion of the workforce at or below minimum wage rose from 9.1 percent in 1998 to 14.4 percent in 1999. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19.

The law sets hours of work and occupational safety and health standards. The legal workweek is 6 days and 48 hours. It is scheduled to be reduced to 45 hours on January 1, 2005. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety were protected under the law and administered by both the Ministries of Health and of Labor. The Government increased resources for inspections by more than 60 percent since 1990 and plans almost to double the current number over the next 3 years, while targeting industries guilty of the worst abuses. As a result, enforcement was improving, and voluntary compliance was fairly good. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove

themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists.

f. Trafficking in Persons

There were no laws that specifically prohibit all forms of trafficking in persons; however, the law makes it a crime for anyone to promote or facilitate the entry to or exit from the country of persons for the purpose of facilitating prostitution. Sanctions are increased in cases in which the victim is a minor; in which violence or intimidation is used; if deception or abuse of authority is involved; if the victim is related or under the tutelage of the perpetrator; if advantage is taken of a victim's circumstances or handicap; or if the action is of a recurring nature. There were a few reports that small numbers of persons may have been trafficked to or from the country.

Child prostitution was a problem. The Constitution and the Labor Code prohibit forced labor, and the prostitution of children and corruption of minors are prohibited under the Penal Code. However, the law does not prohibit prostitution, and the age of consent for sexual relations is 14 years (raised by Congress in December from 12 years).

There are legal sanctions for adults who are found to have induced children under the age of 18 to engage in commercial sex or engage them for the purposes of pornography. UNICEF estimated in 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18. A study conducted by SENAME and Arcis University in the first half of the year put the number at 3,719, but many of those familiar with the problem believe that number to be too low. The age of consent is 12 years; the law is vague regarding child prostitution above this age unless force, fraud, or abuse of authority can be proven.

The Government employs various measures to help educate the general population on trafficking. Other organizations such as Mother's Centers and the National Service for Minors also offered support programs to prevent trafficking.